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REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Final Official Action, the Examiner rejects claims 1-17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,117,128 to Gregory (hereinafter "Gregory").

In response, Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. §§ 102(b) and 103(a) for at least the reasons set forth below. However, independent claims 1 and 17 have been amended to clarify their distinguishing features. Specifically, the endoscope of independent claim 1 has been amended to recite:

an insertion unit having a soft portion, the insertion portion having an articulating section at a distal endoscope end thereof; a control section disposed at a proximal end of the insertion unit for controlling articulation of the articulating section.

Thus, claim 1 now positively recites both an articulating section and control section of the endoscope.

Similarly, the insertion unit of claim 17 has been amended to positively recite the articulating section and inferentially recite the control section.

The amendment to claims 1 and 17 are fully supported in the original disclosure. Thus, no new matter has been introduced into the original disclosure by way of the amendment to claims 1 and 17.

Gregory discloses a catheter having a small diameter portion, a large diameter portion and a tapered portion between the small and large diameter portions. The catheter is disclosed as being used for introduction into a blood vessel. The catheter of Gregory is not articulatable and therefore, does not include an articulating distal end or a control section for controlling such articulation.

As discussed previously, a feature of the endoscope and the insertion unit for an endoscope recited in claims 1 and 17, respectively, is that in order to improve the insertability into a body portion, such as the large intestine, the tapered portion is provided in the soft section, such as in the middle, and the small diameter portion and the large diameter portion are provided distally and proximally, respectively, with respect to the tapered portion so that operation at the proximal side may be easily transmitted to the distal side.

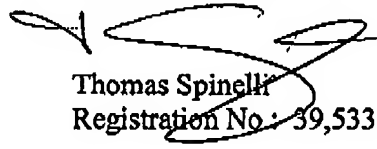
Catheters, such as the one disclosed in Gregory, are inserted over a guide wire or through a channel in an endoscope and thus, their insertability is determined to a large degree by the guide wire or endoscope channel. In contrast, an endoscope is inserted into a body cavity/lumen on its own and must not only be easily insertable but also articulatable in order to traverse curves in the body cavity/lumen to which it is being inserted. Claims 1 and 17 now positively recite features for both insertability and articulation. The catheter of Gregory simply does not disclose or suggest such features.

With regard to the rejection of claims 1-17 under 35 U.S.C. § 102(b), an endoscope having the features discussed above and as recited in independent claims 1 and 17, is nowhere disclosed in Gregory. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,"¹ independent claims 1 and 17 are not anticipated by Gregory. Accordingly, independent claims 1 and 17 patentably distinguish over Gregory and are allowable. Claims 2-16 being dependent upon claim 1 are thus at least allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1-17 under 35 U.S.C. § 102(b).

¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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